

§ 22.23

(b) *Emergency variations from requirements*—(1) *Application*. When an emergency exists, a permittee may apply to the appropriate ATF officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The permittee shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by appropriate ATF officer*. The appropriate ATF officer may approve an emergency variation from requirements if:

- (i) An emergency exists;
- (ii) The variation from the requirements is necessary;
- (iii) It will afford the same security and protection to the revenue as intended by the specific regulations;
- (iv) It will not hinder the effective administration of this part; and
- (v) It is not contrary to law.

(3) *Conditions of approval*. A permittee may not employ an emergency variation from the requirements until the appropriate ATF officer has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval*. If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval*. The appropriate ATF officer may withdraw approval for an alternate method or procedure or an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the appropriate ATF officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1512-0335)

(Act of August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805); sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-435, 66 FR 5476, Jan. 19, 2001]

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§ 22.23 Allowance of claims.

The appropriate ATF officer is authorized to allow claims for losses of tax-free alcohol.

§ 22.24 Permits.

(a) The appropriate ATF officer shall issue permits on Form 5150.33 covering the withdrawal of tax-free alcohol by the United States or a Governmental agency as provided in § 22.172.

(b) The appropriate ATF officer shall issue the permit to withdraw and use tax-free alcohol, Form 5150.9 required under this part.

§ 22.25 Right of entry and examination.

An appropriate ATF officer may enter, during business hours or at any time operations are being conducted, any premises on which operations governed by this part are conducted to inspect the records required by this part to be kept on those premises. An appropriate ATF officer may also inspect and take samples of tax-free alcohol to which those records relate.

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985. Redesignated by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

§ 22.26 Detention of containers.

(a) *Summary detention*. An appropriate ATF officer may detain any container containing, or supposed to contain, alcohol when the appropriate ATF officer believes the alcohol was withdrawn, sold, transported, or used in violation of law of this part. The appropriate ATF officer shall hold the container at a safe place until it is determined if the detained property is liable by law to forfeiture.

(b) *Limitations*. Summary detention may not exceed 72 hours without process of law or intervention of the appropriate ATF officer. The person possessing the container immediately before its detention may prepare a waiver of the 72 hours limitation to have the container kept on its premises during detention.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5311))

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985. Redesignated by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]